

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

CRIMINAL CASE NO. 3:08cr233

UNITED STATES OF AMERICA,)

)

)

vs.

)

ORDER

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)

(1) JOSE PERALTA,)

(2) MIGUEL LORIA,)

(3) RICHARD VARELA,)

(4) MARINO MARTINEZ.)

)

THIS MATTER is before the Court on the Government's Motion for Alternative Victim Notification Procedures. [Doc. 75].

The Crime Victims' Rights Act provides that the victim of a crime has the right to "reasonable, accurate, and timely notice of any public court proceeding" involving the crime at issue and the right "to be reasonably heard at any public proceeding in the district court" involving the sentencing of the defendant. 18 U.S.C. §3771(a)(2) & (4). However, in "a case where the court finds that the number of crime victims makes it

impracticable to accord all of the crime victims the rights described [above], the court shall fashion a reasonable procedure to give effect to this [Act] that does not unduly complicate or prolong the proceedings.” 18 U.S.C. §3771(d)(2).

Members of the conspiracy alleged in the indictment used stolen identity information from thousands of residents of Puerto Rico to file false tax returns seeking fraudulent tax refunds. The tax returns contained the stolen identity information of these victims but used addresses unrelated to them in order to receive the refunds. The Government has estimated that approximately 2,500 residents of Puerto Rico were victims.

No resident of Puerto Rico is required to file tax returns with the Internal Revenue Service (IRS) unless a portion of that resident’s income was derived from a source within the United States. The IRS has implemented a mechanism to alert it to any tax return filed by one of the victims to ensure that no negative impact occurs as to that filer.

The Government has proposed that a press release containing specific information about the sentencing hearings would be a reasonable alternative to actual notice to each victim at his or her residential address. The Defendants do not object. Having reviewed the information to be

included in the press release, the Court finds it is a reasonable procedure which will give effect to the Act. However, the Court will require the press release to be made in Puerto Rico as well as any other location selected by the Government.

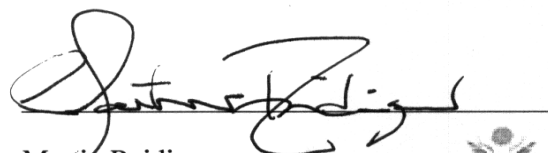
IT IS, THEREFORE, ORDERED that the Government's Motion for Alternative Victim Notification Procedures [Doc. 75] is hereby **GRANTED** and the Government shall issue a press release to the public within Puerto Rico sufficiently in advance of the dates of sentencing to provide meaningful notice. The press release shall contain the following information:

1. The name of each Defendant, the case number and the charges for which that Defendant will be sentenced;
2. Notification that residents of Puerto Rico may have been victimized by the conduct of the Defendant(s);
3. Each of the victim notification rights contained within 18 U.S.C. §3771(a);
4. The name and contact information of the Victim-Witness Coordinator for the United States Attorney for the Western District of North Carolina, Charlotte Division;

5. A description and explanation of the Government's Victim Notification System (VNS) and the means by which any victim may register and obtain case information from the VNS website, www.notify.usdoj.gov, or from the VNS call center; and
6. The date, time and location of the sentencing hearing.

IT IS FURTHER ORDERED that upon issuance of the press release, the Government shall send the same via first class mail or via e-mail to every newspaper publishing daily within the Commonwealth of Puerto Rico. The Government shall file proof of delivery of the press release by such means, and upon publication of this press release, the Government shall file proof of publication and a copy of the press release in the record of this case.

Signed: September 14, 2009


Martin Reidinger
United States District Judge

